

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FRANK VICARETTI, JR.,

Petitioner,

v. // CIVIL ACTION NO. 1:10CV91
(Judge Keeley)

JOEL ZIEGLER, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 18],
GRANTING DEFENDANT'S MOTION TO DISMISS, OR IN THE
ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT [DKT. NO. 10],
AND DENYING AND DISMISSING PETITIONER'S § 2241 PETITION
WITH PREJUDICE [DKT. NO. 1]

On June 11, 2010, the pro se petitioner, Frank Vicaretti, Jr. ("Vicaretti"), filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 ("Petition") challenging the decision of the Bureau of Prisons ("BOP") to place him in a residential re-entry center for less than the maximum allowable time of twelve months (dkt. no. 1). The Court referred this matter to the Honorable David J. Joel, United States Magistrate Judge ("Magistrate Judge Joel") for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation Procedure 2.

On July 13, 2010, the defendant, Joel Ziegler, Warden ("Ziegler"), moved to dismiss, or in the alternative, for summary judgment on Vicaretti's Petition (dkt. no. 10). On July 14, 2010, the Court sent a Roseboro notice to Vicaretti (dkt. no. 13), who filed a timely response in opposition to Ziegler's motion on August 5, 2010 (dkt. no. 17).

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On October 27, 2010, Magistrate Judge Joel issued his Report and Recommendation ("R&R"), recommending that Ziegler's motion be granted and that Vicaretti's Petition be denied and dismissed with prejudice (dkt. no. 18).

The R&R also specifically warned Vicaretti that his failure to object to the recommendation within fourteen days of receipt of the R&R would result in the waiver of any appellate rights he might have as to these issues. Although Vicaretti was served with the R&R on October 29, 2010 (dkt. no. 19), he filed no objections.¹

Based on Vicaretti's failure to file objections to the R&R, the Court **ADOPTS** the R&R in its entirety (dkt. no. 18), **GRANTS** Ziegler's motion to dismiss or, in the alternative, motion for summary judgment (dkt. no. 10), and **DENIES** and **DISMISSES** Vicaretti's petition **WITH PREJUDICE** (dkt. no. 1).

It is so **ORDERED**.

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-53 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-00 (4th Cir. 1997).

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Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk to enter a separate judgment order and to transmit copies of both orders to counsel of record, and to mail copies to the pro se petitioner, certified mail, return receipt requested.

Dated: November 23, 2010.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE